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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/911,537 | 07/25/2001 | Eiji Kito | F-11530 | 5099 |

466 7590 05/19/2005

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EXAMINER

AMINZAY, SHAIMA Q

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2684

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/911,537

Applicant(s)

KITO, EIJI

Examiner

Shaima Q. Aminzay

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1-6 is/are allowed.
6) ☒ Claim(s) 7 and 11 is/are rejected.
7) ☒ Claim(s) 8-10 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 25 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The following office action is in response to Amendment, December 2, 2004.

Claims 1-11 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiedemann (Tiedemann Jr. et al. U. S. Patent 5,914,950) in view of Bishop (Bishop et al. U. S. Patent 6,850,512).

4. Regarding claim 7, Tiedemann discloses a communication system (see for example, Figures 1-2, column 14, lines 53-56), comprising: mobile stations that are connected to said base station via respective radio connections (see for example, Figures 2, column 7, lines 9-13, and lines 36-39, mobile connection to base station via radio connections); and a transfer rate setting section that sets data transfer rate from said data buffer to one of said mobile stations via

respective one of said radio connections based on an amount of data in said data buffer (see for example, Figures 1-3, and Figure 8 (blocks 222 and 224), column 5, lines 51-52, column 11, lines 53-63), a base station that is connected via network connection [to a content server] (see for example, Figures 2, column 6, lines 15-20, the base station connected to data source via network interface (24)), and said base station comprising a data buffer that stores data transmitted [from the content server] to said base station via said network connection (see for example, Figures 2 (10), and Figure 3 (94), column 6, lines 15-20, column 8, lines 10-29, and column 8, lines 1-23, the base station data storage stores data transmitted from the data source via network interface to the base station).

Tiedemann does not specifically disclose a content server, however, Tiedemann discloses data source (see for example, Figure 2 elements 20 and 22 and network interface 24).

In a related art dealing with mobile communication system and data transfer rate (see for example, Figures 1-2, column 1, lines 6-15, column 2, lines 50-60), Bishop discloses a content server (see for example, Figures 1-2, column 2, lines 50-67 continued to column 3, lines 1-8, and lines 27-29, content server (i.e. 94-2)).

It would have been obvious to one of ordinary skill in the art at the time invention was made to have included Bishop's content server into Tiedemann's mobile communication system to provide support for "increased mobility of remote terminals in communication with a network without unduly reducing data

throughput on any of the links" (Bishop, column 2, lines 10-13).

Regarding claim 11, Tiedemann in view of Bishop disclose all the limitations in claim 7, and further, Bishop teaches the first radio transfer channel and a second radio transfer channel different from said first radio transfer channel and whose data transfer rate is different than that of said first radio transfer channel (see for example, Figures 1-2, column 2, lines 50-60), and wherein said transfer rate setting section switches between said first and second radio transfer channels for data transfer from said base station to the one of said mobile stations (see for example, Figures 1-2, column 2, lines 50-67 continued to column 3, lines 1-8, and lines 27-29).

Allowable Subject Matter

5. Claims 1-6 are allowed.
6. Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Arguments with respect to claims 7 and 11 are moot in view of the new ground(s) of rejection.

8. Arguments with respect to claims 1-6, and 8-10 are moot in view of indicating that they are allowable subject matter.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

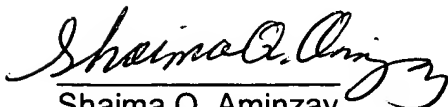
The prior art made of record considered pertinent to applicant's disclosure, see PTO-892 form.

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaima Q. Aminzay whose telephone number is 571-272-7874. The examiner can normally be reached on 7:00 AM -5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882, the primary examiner, Nick Corsaro can be reached on 571-272-7876. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shaima Q. Aminzay
(Examiner)


NICK CORSARO
PRIMARY EXAMINER

Nay Maung
(SPE)
Art Unit 2684

May 5, 2005